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In re Application of:
MEYER, ROMAN et al : DECISION
Application No.: 10/583,415 :
PCT Application No.: PCT/DE2004/002778 :
Int. Filing Date: 20 December 2004 : UNDER
Priority Date: 20 December 2003 :
Atty Docket No.: DEBE:067US :
For: ENDOTOXIN DETECTION METHOD : 37 CFR § 1.181

This is in response to applicants' "Petition Under 37 C.F.R. 1.181(A) to Withdraw Holding of Abandonment Based on Failure to Respond to Notification of Defective Response" filed on 13 November 2009. No petition fee is required.

BACKGROUND

On 20 December 2004, applicants submitted international application PCT/DE2004/002778, which claimed priority to a prior application filed 20 December 2003.

On 15 June 2006, applicants filed a submission for entry into the national stage in the United States, which was accompanied by, inter alia, a preliminary amendment to the specification and the claims. The papers were assigned U.S. application number 10/583,415.

On 02 September 2008, The United States national stage office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (Form DO/EO/905) informing applicants of the need to provide a signed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date. The notification also requires a sequence listing in computer readable form.

On 31 October 2008, applicants filed a response to the Notification. The response included a transmittal letter, substitute sequence listing in .txt format, and an executed declaration.

On 02 June 2009, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating the sequence listing was defective.

On 24 June 2009, applicants filed a response to the Notification. The response included another copy of the sequence listing in .txt format.

On 14 July 2009, the DO/EO/US mailed a second Notification of Defective Response (Form PCT/DO/EO/916) instead of Notification of Abandonment indicating the sequence listing was again defective.

On 24 September 2009, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909).

On 13 November 2009, applicants filed the present petition under 37 CFR 1.181 and a new sequence listing file.

DISCUSSION

The Notification of Defective Response mailed 02 June 2009 set a one month, non-extendable time limit for reply. Applicant's correspondence filed 24 June 2009 did not include a complete and proper reply to the Notification of Defective Response mailed 02 June 2009. Specifically, a proper sequence listing in computer readable form was not provided.¹ Accordingly, the present application became abandoned on 03 July 2009 for failure to timely file a proper reply to the Notification of Defective Response mailed 02 June 2009. The Notification of Defective Response mailed 14 July 2009 was sent in error since the application was already abandoned.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **DISMISSED AS MOOT**.

The Notification of the Defective Response mailed 14 July 2009 is hereby **VACATED**.

The Notification of Abandonment mailed 24 September 2009 is hereby **VACATED**.²

¹ See the attached sequence listing error report.

² It is noted that the present application remains abandoned for the reasons discussed above.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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